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RUEHKT/AMEMBASSY KATHMANDU PRIORITY 5362  
RUEHLO/AMEMBASSY LONDON PRIORITY 3897  
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 1182  
RUEHNY/AMEMBASSY OSLO PRIORITY 3968  
RUEHKO/AMEMBASSY TOKYO PRIORITY 3054  
RUEHCG/AMCONSUL CHENNAI PRIORITY 7848  
RUEHBI/AMCONSUL MUMBAI PRIORITY 5503  
RUEHON/AMCONSUL TORONTO PRIORITY 0304  
RUEHGV/USMISSION GENEVA PRIORITY 2194  
RHHMUNA/HQ USPACOM HONOLULU HI PRIORITY  
RHEFDIA/DIA WASHINGTON DC PRIORITY  
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C O N F I D E N T I A L SECTION 01 OF 02 COLOMBO 000966

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DEPARTMENT FOR SCA/INS  
MCC FOR D NASSIRY AND E BURKE

E.O. 12958: DECL: 07/05/2017  
TAGS: [PGOV](#) [PREL](#) [PTER](#) [PHUM](#) [MOPS](#) [CE](#)  
SUBJECT: IIGEP DISPUTE WITH GSL DIFFUSED FOR NOW

REF: A. COLOMBO 835  
[1](#)B. COLOMBO 742  
[1](#)C. COLOMBO 563  
[1](#)D. AND PREVIOUS

Classified By: Charge D'Affaires James R. Moore, for reasons 1.4(b,d).

[1](#)1. (C) SUMMARY: On June 20, the International Independent Group of Eminent Persons (IIGEP) received a harshly worded letter from the Attorney General (AG) accusing IIGEP of over-extending its mandate, relying too much on its assistants, and insulting the members of the Commission of Inquiry (COI). IIGEP Chairman Justice P.N. Bhagwati subsequently received a visit from Human Rights Minister Mahinda Samarasinghe who asked him to stay on despite the deteriorating relations between IIGEP, the COI and the AG. A few days later however, the Government of Sri Lanka (GSL) publicly denied its appeal to Bhagwati. In the meantime, the COI appears to have taken some of IIGEP's recommendations on board. In turn, IIGEP is now working to maintain at least one member in Sri Lanka at all times, a request made repeatedly by the COI. Despite the recent tensions, IIGEP has seen an increase in the number of witnesses coming forward. End Summary.

AG Letter Angers Bhagwati  
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[1](#)2. (C) On June 20, IIGEP received a strongly-worded letter from the AG to IIGEP Chairman Justice P.N. Bhagwati accusing IIGEP of over-extending its mandate, relying too much on its assistants, and insulting the members of the COI. This letter followed the AG's official responses to IIGEP's first and second public statements in early June. The seven-page letter defended the appointment of five officers from the AG's office to the COI's Panel of Counsel and denied that the involvement of these officers prejudiced the investigation. The AG concluded his letter with a challenge to Bhagwati to personally observe the COI's activities rather than relying on assistants, "who appear to be totally innocent of what is

actually taking place." The COI sent a letter to IIGEP the same week defending the inclusion of officers from the AG's office and asserting their impartiality in the investigation.

¶3. (C) David Savage, IIGEP Assistant to US Eminent Person (EP) Gene Dewey, told us on July 9 that Bhagwati was so insulted by the AG's letter that he wrote to President Rajapaksa to convey his disapproval. Savage said Bhagwati even considered the possibility of resigning. Subsequently, Disaster Management and Human Rights Minister Mahinda Samarasinghe paid Bhagwati a visit in New Delhi to convey the President's message that he did not agree with the AG's position and hoped Bhagwati would continue as the Chairman of IIGEP. This visit satisfied Bhagwati, at least temporarily, and the IIGEP assistants considered the issue resolved. However, on July 5 the GSL released a public statement denying its appeal to Bhagwati. We do not yet know Bhagwati's reaction to the Government's retraction.

¶4. (C) Other EPs were also concerned about the AG's letter. According to Savage, British EP Sir Nigel Rodley was angered by the letter, but has since agreed to abide by the group's consensus on how to proceed. Dewey suggested a meeting between the Commissioners and at least three EPs to work out a way forward, and he noted that a continued exchange of letters was unlikely to achieve any meaningful progress or results. The first opportunity to meet may be in August when the EPs arrive in Colombo for the next plenary.

#### COI and IIGEP Make Procedural Improvements

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¶5. (C) Savage told us that although IIGEP has received no formal GSL response to the first IIGEP Quarterly Report to the President, the COI appears to have taken some of IIGEP's recommendations on board. He said the COI has changed its procedures for evidence handling and for conducting hearings. He also said the lead questioner from the AG's office has altered his method of questioning to address IIGEP concerns.

¶6. (C) In response to criticism contained in the letters from the AG and the COI, IIGEP has set a goal of maintaining at least one EP in Sri Lanka at all times. Savage said the EPs have all submitted their schedules and there should be continuous coverage from late July through the end of the year.

#### Substantive Progress Continues

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¶7. (C) Despite the recent tensions, IIGEP has seen an increase in the number of witnesses coming forward. For example, on July 6 IIGEP staff traveled outside Colombo to speak to family members of one of the youths killed in Trincomalee. Several key witnesses also have come forward on the case involving the killing of 17 Action Against Hunger workers in Muttur. IIGEP is collecting statements from these witnesses, but will not release the information to the COI until sufficient witness protection measures are in place. Some witnesses have reported receiving anonymous letters warning them not to speak to investigators.

#### Next Steps

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¶8. (C) Savage told us that IIGEP has developed a list of recommendations as to how the COI could operate more efficiently and make faster progress. IIGEP has requested a meeting with the COI, asking that the AG's office not be present, to discuss these ideas. Savage also noted that a few Commissioners have expressed interest in meeting with IIGEP to work on improving relations between the two groups.

¶9. (C) Savage reported that members of the Witness Protection Working Committee have discussed a possible meeting of donor countries, Commissioners, and IIGEP representatives at which Savage will outline GSL witness protection needs and make assistance recommendations. He stressed that formal witness testimonies cannot begin until adequate witness protection measures are implemented.

¶10. (C) Dewey told us he plans to arrive in Colombo on or about July 21 and stay through the August 12-14 plenary. In the meantime, France has nominated Judge Jean-Pierre Cot of the International Tribunal for the Law of the Sea to replace Bernard Kouchner, who left IIGEP to serve as France's new Foreign Minister. Cot's nomination has not yet been approved by the GSL.

¶11. COMMENT: (C) While Samarasinghe's visit to New Delhi smoothed ruffled feathers, the issue of the AG's role in the COI has yet to be resolved. IIGEP is unlikely to compromise on this issue, and may soon have to decide whether it can continue if its concerns are not addressed. Meanwhile, the COI still seems interested in engaging with IIGEP, improving its performance, and fulfilling its mandate.

MOORE